IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.551/2001

Jagdish Prasad S/o Shri Shyamlal
...defendant-appellant
Versus
Prakash Chandra S/o Shri Sunder Lal
...plaintiff-respondent
AND
Mohan Lal (since deceased) through LRs
Smt. Sushila & Others
...defendant-respondents

Date of Order ::: 14.11.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Amit Gupta, Advocate, for
Shri Bihari Lal Agarwal, Counsel for defendant-appellant
Shri Jagdish Prasad, defendant-appellant, present-in-person
Shri Anil Bhardwaj, Counsel for plaintiff-respondent
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By the Court:-

Learned counsel for the defendant-appellant, on the instructions of defendant-appellant Jagdish Prasad, who is present in the court, does not press this appeal on merits and prays that some reasonable time may be granted to the defendant-appellant to handover peaceful and vacant possession of the rented premises to the plaintiff-respondent. Learned counsel for the plaintiff-respondent, on the instructions of plaintiff-respondent, does not object the prayer for

grant of time up-to 31st of December, 2007, to the defendant-appellants to handover peaceful and vacant possession of the rented premises.

Both the parties have agreed to the following terms and conditions:-

1. The defendant-appellant undertakes to hand-over the vacant and peaceful possession of the rented premises, in dispute, to the plaintiff-respondent on or before 31st of December, 2007. The plaintiff-respondent shall not execute the impugned decree till 31st of December, 2007.

2. The defendant-appellant undertakes to pay or deposit the entire arrears of mesne profit/rent, if any, within a period of one month from today and will further continue to pay the monthly mesne profit/rent by 15th day of each succeeding month or in advance to the plaintiff-respondent.

3. The defendant-appellant further undertakes that he shall not sub-let, assign or part with the possession of the rented premises or any part thereof in favour of any one else and would not create any third party interest in the same during the aforesaid period.

4. The defendant-appellant shall furnish a written undertaking incorporating the aforesaid conditions, in the Lower Court within a period of four weeks from today.

5. The plaintiff-respondent shall furnish the details of his bank account to the defendant-appellant or his counsel within a period of two weeks from today. In case, the details of the bank account are furnished by the plaintiff-respondent then the defendant-appellant is directed to deposit the amount of all arrears as well as future mesne profits in the said bank account of the plaintiff-respondent. In case the details of the bank account are not furnished by the plaintiff-respondent then it will be open for the defendant-appellant to deposit the amount, as directed above, in the lower court itself.

It is made clear that in case the defendant-appellant does not comply with any of the aforesaid conditions, then it will be open for the plaintiff-respondent to get the decree passed in his favour executed even before the aforesaid date and to initiate contempt proceedings in this court.

With the aforesaid terms, conditions and directions, the second appeal is accordingly dismissed as not pressed.

Consequent upon dismissal of the appeal as not pressed, the application under Order 41 Rule 27 of the C.P.C., does not survive and the same is also dismissed.

(Narendra Kumar Jain) J.

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